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TC 3600

Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of
Harald Beck, et al.
Application No. 09/965,776
Filed: September 27, 2001
For: METHOD AND DEVICE FOR CONTROLLING A
WHEEL BRAKE OF A MOTOR VEHICLE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on October 28, 2004, under 37 CFR 1.181.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed on October 19, 2004 because of applicants' failure to properly respond to the Office action (Final Rejection), mailed October 10, 2003, that set a three-month shortened statutory period for response.

The petition indicates that an Appeal Brief and a request for a one-month extension of time were filed by mail on May 11, 2004. In support thereof, petitioner submits copies of a response (Appeal Brief), and a request for a one-month extension of time extending the period for response to May 12, 2004. Both the Appeal Brief and the request for extension of time include Certificates of Mailing signed by Michelle Carniaux, and dated May 11, 2004. Petitioner further includes a copy of a postcard receipt dated May 13, 2004. Since the postcard receipt has a date stamp outside the period for reply, applicants cannot rely on the postcard receipt, and must rely on the Certificates of Mailing dated May 11, 2004, to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

- (1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance Michelle Carnaiux.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."



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SNM/rwg: 1/24/05